

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 164

(Senator Watson)

Judicial Proceedings

Judiciary

Driver's Licenses - Suspension for Child Support Arrearages - Exception

This bill generally exempts an obligor whose individual income for the current year is at or below 250% of the federal poverty guidelines (FPG) from provisions requiring the Motor Vehicle Administration (MVA) to suspend the obligor's license or privilege to drive in the State if the obligor is out of compliance with a child support order and specified conditions are met. However, this exemption does not apply if the obligor was judicially determined at the time the most recent child support order was entered to be "voluntarily impoverished" under State law. The bill also extends, from 60 to 120 days, the period in which the holder of a noncommercial license may be out of compliance with a child support order before the Child Support Administration (CSA) notifies MVA to begin the process to suspend the obligor's license.

Fiscal Summary

State Effect: General and federal fund expenditures increase beginning in FY 2024, as discussed below. In FY 2024 only, general fund expenditures increase by as much as \$1.5 million for reprogramming. Federal fund matching revenues increase correspondingly to any increase in federal fund expenditures. General fund revenues likely decrease minimally due to fewer citations issued to individuals for driving with a suspended license.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: For purposes of the bill, to determine the income of an obligor, CSA must consider the information provided by the Maryland Total Human-Services Integrated Network (MD THINK). However, at the election of the obligor, or if no information is available from MD THINK, CSA must instead consider (1) the income of the obligor at the time the most recent child support order was entered or (2) information on the obligor's income provided by the obligor, the Comptroller, or an employer of the obligor.

By October 1, 2024, the Department of Human Services (DHS) must enhance MD THINK to capture an obligor's individual current-year income for purposes of suspending an obligor's license or privilege to drive in the State if the obligor is out of compliance with a child support order, as specified.

The bill also alters, from 20 days to 45 days, the time within which an obligor may appeal in writing to the Office of Administrative Hearings (OAH) the results of a CSA investigation regarding a proposed license suspension.

In addition, the bill adds the Comptroller to the agencies that must cooperate with the Secretaries of Human Services and Transportation, as specified, in the adoption of regulations to implement the statutory provisions related to the suspension of driving privileges of an obligor for child support arrearages.

Current Law: After providing an obligor with notice and the opportunity to request an investigation, as specified below, CSA within DHS may notify MVA if an obligor is 60 days or more out of compliance (120 days for holders of a commercial license) with the most recent order of the court in making child support payments. Upon such notification, MVA must suspend an obligor's license or privilege to drive and may issue a work-restricted license or work-restricted privilege to drive.

MVA must reinstate an obligor's license or privilege to drive if it receives a court order to do so or if CSA notifies MVA that (1) the individual is not in arrears in making child support payments; (2) the obligor has paid the support arrearage in full; (3) the obligor has demonstrated good faith by paying the ordered amount of support for six consecutive months; or (4) the obligor is a participant, in full compliance, in an employment program approved by CSA. As discussed below, an obligor has the right to request an investigation based on specified grounds prior to information being sent to MVA. MVA must also reinstate the license on notice from CSA that one of these specified grounds exists.

Before providing any information to MVA regarding a child support obligor, CSA must send written notice of the proposed action to an obligor, including notice of the obligor's right to request an investigation on any of the following grounds: (1) the information

regarding the reported arrearage is inaccurate; (2) suspension of the obligor's license or privilege to drive would be an impediment to the obligor's current or potential employment; or (3) suspension of the obligor's license or privilege to drive would place an undue hardship on the obligor because of the obligor's documented disability resulting in a verified inability to work or inability to comply with the court order. In addition, CSA must give the obligor a reasonable opportunity to request an investigation of the proposed action. If, after an investigation or appeal to OAH, CSA finds that one of the circumstances specified above exists, CSA may not send any information about the obligor to MVA.

Additionally, CSA may not send any information about an obligor to MVA if (1) CSA reaches an agreement with the obligor regarding a scheduled payment of child support arrearages (or a court issues an order for a scheduled payment) and (2) the obligor is complying with the agreement (or court order).

Voluntary Impoverishment

Under current law, "voluntarily impoverished" means that a parent has made the free and conscious choice, not compelled by factors beyond the parent's control, to render the parent without adequate resources.

State Fiscal Effect: DHS advises that it requires 29 additional caseworkers to perform the manual process that will exclude obligors impacted by this bill, at an annual cost of approximately \$2.0 million. While acknowledging that the volume of potentially impacted cases (more than 17,300 individuals had licenses suspended due to child support noncompliance in fiscal 2022) is likely high enough that any extra work or departure from routine processing methods is not fully absorbable, the Department of Legislative Services (DLS) disagrees that 29 positions, as indicated by DHS, are required.

CSA must already provide written notice to an obligor and give the individual a reasonable opportunity to request an investigation prior to supplying information to MVA; procedures could likely be developed to alert an obligor whose income may be at or below 250% of FPG of the option to provide information to CSA for consideration in income determination in order to prevent a referral to MVA. The bill also requires CSA to consider information provided by MD THINK (subject to specified exceptions) and requires enhancements to MD THINK that are assumed to help facilitate income determinations. A specific estimate of costs depends on procedures ultimately developed by CSA; however, it is assumed that the bill's requirements can be handled more efficiently and with fewer resources than estimated by DHS. *For illustrative purposes only*, for every additional caseworker needed, expenditures increase by \$58,445 in fiscal 2024 (which reflects the bill's October 1, 2023 effective date) and approximately \$73,000 annually thereafter, of which 34% is supported by general funds, and 66% is supported by federal funds.

DHS reports reprogramming is necessary in order to enhance MD THINK, including updating the system infrastructure, development, testing, implementation, and initial operations, as required by the bill. Thus, DHS estimates that general fund expenditures increase by as much as \$1.5 million for that purpose. Although the bill requires these enhancements to be made by October 1, 2024, it is assumed that the related expenditures are incurred in fiscal 2024.

DLS also notes that DHS receives federal incentive funds for performance measures related to its child support enforcement efforts. Performance measures include payments on arrears and total collections, both of which may be impacted by the bill to the extent that obligors' payment habits change as a direct result of (1) no longer being subject to license suspension (for obligors at or below 250% of FPG) or (2) the extended period of time during which an individual may be out of compliance with a child support order before a referral to MVA for license suspension. In addition, because Temporary Cash Assistance recipients must assign their support rights to the State and federal governments as partial reimbursements for payments made on behalf of the children of the obligor, the bill may similarly impact special fund revenues. However, because license suspension is not the only enforcement tool available to CSA and an obligor may continue to attempt to comply with a child support order even without the possibility of license suspension, any impacts on such federal incentive funds and/or special fund offset revenues *solely* attributable to the bill are not anticipated to be material.

The bill does not materially affect MVA, OAH, or the Judiciary.

Fine Revenues and Reinstatement Fees

The bill also affects general fund revenues. Because the bill repeals the possibility of a license suspension due to nonpayment of child support for certain individuals and extends the time during which an obligor may be out of compliance before CSA notifies MVA, the number of citations issued to individuals driving with a suspended driver's license is likely to decline. An individual convicted of driving with a license that is suspended due to nonpayment of child support is subject to a fine of up to \$500, may not prepay the fine, and must appear in court. Additionally, three points are assessed against the person's license.

In fiscal 2022, MVA suspended approximately 17,300 licenses due to child support noncompliance. MVA advises that it does not charge a fee for a driver's license reinstatement if a person shows they are in compliance after a suspension. Therefore, Transportation Trust Fund revenues are not materially affected by the bill.

Additional Comments: The Judiciary has previously advised that, tied to federal reimbursement for states, federal law requires each state to have in effect laws requiring

the use of certain procedures, including those under which the state has, and uses in appropriate cases, authority to withhold or suspend or otherwise restrict the use of driver's licenses of individuals owing overdue support. The requirement extends to individuals failing, after receiving appropriate notice, to comply with subpoenas and warrants relating to paternity or child support proceedings. Nevertheless, the Judiciary advised that nothing in the federal law or implementing rules specifically provides that the income limits in this bill would violate that statutory requirement. In its June 2019 report, [Reforming Child Support to Improve Outcomes for Children and Families](#), the Abell Foundation recommended that Maryland stop suspending driver's licenses for child support nonpayment when parents earn less than 200% of the federal poverty level.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 884 and HB 1293 of 2022.

Designated Cross File: HB 326 (Delegate Henson, *et al.*) - Judiciary.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of Human Services; Maryland Department of Transportation; Abell Foundation, *Reforming Child Support to Improve Outcomes for Children and Families*; Department of Legislative Services

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